

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Alberto Trejo,)	Case No. 6:24-cv-03652-JDA
)	
Plaintiff,)	
)	
v.)	<u>OPINION AND ORDER</u>
)	
S/A B. Hyatt, Alan Wilson, Mr.)	
McWhite,)	
)	
Defendants.)	

Plaintiff Alberto Trejo, while a pretrial detainee*, proceeding pro se and in forma pauperis, filed this case pursuant to 42 U.S.C. § 1983. [Doc. 1.] In signing the Complaint, Plaintiff acknowledged that he was responsible for notifying the Clerk in writing of any change of address and that failure to keep his address updated with the court may lead to dismissal of the case. [*Id.* at 14.] In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to a Magistrate Judge for all pretrial proceedings.

By Order dated July 9, 2024, Plaintiff was given an opportunity to provide the necessary information to bring the case into proper form for evaluation and possible service of process, including paperwork regarding payment of the filing fee. [Doc. 8.] Plaintiff was warned that failure to provide the necessary information and paperwork within the timetable set in the Order could subject the case to dismissal. [*Id.* at 2.] The Order also reminded Plaintiff to notify the clerk in writing of any change of address and warned that failure to keep his address updated with the Court may lead to dismissal of

* Plaintiff appears to now be in the custody of the South Carolina Department of Corrections ("SCDC").

the case. [*Id.* at 3.] Plaintiff did not respond to the Order, so on August 5, 2024, Plaintiff was given an additional opportunity to bring the case into proper form. [Doc. 12.] In the Second Proper Form Order, Plaintiff was again warned that failure to provide the necessary information and paperwork within the timetable set in the Order may subject the case to dismissal. [*Id.* at 1.] The Second Proper Form Order also reminded Plaintiff to notify the clerk in writing of any change of address and warned that failure to keep his address updated with the Court may lead to dismissal of the case. [*Id.* at 2.] Plaintiff responded to the Order, but only provided some of the proper form documents, so on August 28, 2024, Plaintiff was given a final opportunity to bring the case into proper form. [Doc. 16.] In the Third and Final Proper Form Order, Plaintiff was again warned that failure to provide the necessary information and paperwork within the timetable set in the Order could subject the case to dismissal. [*Id.* at 1.] The Third and Final Proper Form Order also reminded Plaintiff to notify the clerk in writing of any change of address and warned that failure to keep his address updated with the Court could lead to dismissal of the case. [*Id.* at 2.] On September 9, 2024, the Third and Final Proper Form Order was returned to the Court as undeliverable mail and stamped, “Return to Sender Attempted Not Known Unable to Forward.” [Doc. 18.] The envelope was also marked as “Return to Sender.” [*Id.*] Upon review, it appeared that Plaintiff had transferred into the custody of SCDC, so the Third and Final Proper Form Order was remailed to Plaintiff at his SCDC address. [Doc. 19.] To this date, Plaintiff has neither advised the Court of any changes to his address nor responded to the Magistrate Judge’s August 28, 2024, Order, and the time for response has lapsed.

Wherefore, based upon the foregoing, Plaintiff has failed to prosecute this case and has failed to comply with Orders of this Court. Accordingly, the case is DISMISSED, without prejudice, in accordance with Fed. R. Civ. P. 41. See *Link v. Wabash R.R. Co.*, 370 U.S. 626 (1962).

s/ Jacquelyn D. Austin
United States District Judge

October 8, 2024
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.